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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/698,307  | 10/31/2003  | Enzo Berti           | 006387.00034        | 1403             |
| 22908   | 7590        | 06/06/2006           | EXAMINER            |                  |
| BANNER & WITCOFF, LTD.<br>TEN SOUTH WACKER DRIVE<br>SUITE 3000<br>CHICAGO, IL 60606 |             |                      | SPISICH, MARK       |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 1744                |                  |

DATE MAILED: 06/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                      |                                     |  |
|------------------------------|--------------------------------------|-------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/698,307 | <b>Applicant(s)</b><br>BERTI ET AL. |  |
|                              | <b>Examiner</b><br>Mark Spisich      | <b>Art Unit</b><br>1744             |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/2005</u> . | 6) <input type="checkbox"/> Other: ____.  |

### DETAILED ACTION

Applicant is requested to update the status of the prior application (10/402,597) mentioned on page 1.

#### ***Claim Rejections - 35 USC § 112***

1. Claims 14 and 25-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The reference to “ridges” (claim 14, line 1) is indefinite in that only one ridge has been recited in claim 1. As there are numerous “elements” in claim 22, claims 25 and 26 are indefinite. Does claim 27 refer to the attachment face of the sponge itself? If it’s the face, claim 27 should be amended. If it’s the mop itself, then claim 27 should depend from claim 23. One of the faces of claim 22 is not part of the scrubber element and thus makes claim 28 indefinite. Applicant should review the claims for any additional informalities.

#### ***Double Patenting***

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

**A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or**

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**patent either is shown to be commonly owned with this application**, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-33 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-19 of U.S. Patent No. 6,892,415 in view of Scholl (USP 3,088,165). '415 discloses the invention substantially as claimed with the exception of the retention members being comprising of pair of walls each with a ridge and engaged in a single aperture. The use of such an arrangement is shown to be known for releasably securing a brush and that one of ordinary skill would deem it obvious to use such an arrangement in the device recited in '415.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1,3,4,7,14,15,16,18, and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Laux et al (USP 6.336.240). The patent to Laux discloses a mop (10) comprising a handle (22), mounting head (12), mop element (26) and scrubber head (48) held to the mounting head by engagement between a first wall (70 or 72) and an aperture (74 or 76), a second wall (another of the walls 70 or 72) and a ridge (78 or 80) on the first wall extending in one direction on a line between the two walls (see figures 2 and 8).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2,5,19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Laux et al (USP 6,336,240). The patent to Laux discloses the invention substantially as claimed with the exception of the length of the scrubber and the spacing of the walls and the distance between the walls of each pair of mounting stems. Given the expected dimensions of the mop of Laux and the fact that the scrubber (50) extends across the full width of the mop, it would not be unreasonable to assume that the length of the scrubber exceeded 6 inches and that the relative spacing between the [pairs of walls exceeded 2 inches. The spacing of claim 20 would further amount to an obvious choice of design so long as they still corresponded to the apertures in the mounting body.

5. Claims 6 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Laux et al (USP 6,336,240) in view of Courtney (USP 5,896,613). The patent to Laux discloses the invention substantially as claimed with the exception of the walls engaging a single aperture. The patent to Courtney discloses a scrubber attachment (54) for a mop which includes pairs of walls (64,66) each including ridges and where each pair of walls engages a single aperture (68,70). It would have been obvious to one of ordinary

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skill to have modified the device of Laux as such as it is shown to be an equivalent scrubber coupling.

6. Claims 1,8-13,18-21 and 22-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 3,834,301 in view of Scholl (USP 3,088,165). '301 discloses a mop comprising a handle (1), mounting head (2), mop element (34) as well as a scrubber element (various brushes) which may be interchangeable. '301 discloses the invention substantially as claimed with the exception of the particular coupling between the mounting head and the scrubber. The patent to Scholl discloses a readily detachable brush (24) wherein the coupling utilizes walls (32) (each of which includes a ridge) which cooperate with an aperture (28). It would have been obvious to one of ordinary skill to have modified the device of '301 as such to provide an alternative manner of releasably securing the scrubbing element. '301 further discloses numerous orientations of the cleaning tools relative to each other and the handle and that the angles recited in some of the claims would be obvious in view of this basic teaching of '301.

7. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 22 above, and further in view of Gantz (USP 2,730,741). The prior art discloses the invention substantially as claimed with the exception of the wringer. The patent to Gantz discloses a combination wiper (14) and scrubber (26) and which further includes a wringer (32). It would have been obvious to one of ordinary skill to have provided such a member to the prior art so that water could be expelled from the sponge.

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**Conclusion**

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited patents are pertinent to mops with attached scrubbing brushes as well as the disclosed means for attaching the brush.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Spisich whose telephone number is (571) 272-1278. The examiner can normally be reached on M-Th (5:30-3:00), Alternate Fri off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Mark Spisich  
Primary Examiner  
Art Unit 1744